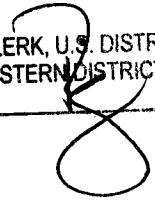


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

MAR 27 2019

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY 

TEXAS LEAGUE OF UNITED LATIN
AMERICAN CITIZENS, ET AL.,

Plaintiffs,

V.

DAVID WHITLEY, in his Official Capacity
as Secretary of State for the State of Texas;
ET AL.,

Defendants.

CIVIL ACTION NO. SA-19-CA-074-FB

ORDER AND ADVISORY

Before the Court is the motion to dismiss (docket no. 81) alleging that the counties only act upon the direction of the Secretary of State, following what the counties perceive to be orders. On the other hand, the Secretary of State has consistently taken the position that his statutory authority is limited to advisories to county election officials. If either interpretation is accepted, the county administrators are those who would send what plaintiffs assert are inaccurate correspondence leading to improper intimidation of eligible voters. Accordingly, the 12(b)(6) motion to dismiss (docket no. 81) is DENIED.

The Court is sympathetic to the counties' concerns about the extraordinary, and in the Court's opinion unnecessary, expense and time caused by the flawed program executed by the Secretary of State's office. Accordingly, the Court would be open to a proposal from the county defendants agreeing not to send notice of examination letters without conclusive evidence that the recipient is indeed a non-citizen registered voter based on an investigation that does not include contact with the individual. Were such a proposal forthcoming, the Court would reconsider whether the counties need to continue being a party to this lawsuit.

It is so ORDERED.

SIGNED this 27th day of March, 2019.


FRED BIERY
UNITED STATES DISTRICT JUDGE